IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 69 OF 2005

Jayesh M. Gandhi and Ors. ...Applicants

Versus

Vinay D. Balse and Ors. ...Respondents

Mr. Ketan Parekh with Ms. A. Ghone, instructed by M/s. Kanga & Company, for the applicants.
None for respondents.

CORAM: **DALVEER BHANDARI, C.J.**
DATE: OCTOBER 10, 2005.

P.C.

The learned counsel for the applicants submits that the respondents have been served but despite service they are not present. Clause 18 of the Deed of Partnership dated 24th April, 2000, reads as under:

> "18. All dispute and questions in connection with the Partnership or this Deed arising between Partners or their representatives shall be referred to Mr. Arun Jaswantlal of Mathubhai Jamietram, Attorneys, as sole Arbitrator and in case he is not available or declines to act or resigns, then to a single Arbitrator if the partners agree upon one otherwise to the Arbitrators to be appointed by each party to the difference in accordance with the provision of the

Arbitration and Conciliation Act, 1996, or any statutory modification thereof".

2. The learned counsel for the applicants has also drawn my attention to letter dated 2nd December, 2004, at Exhibit-C to the application, sent by the named arbitrator Mr. Arun Jaswantlal, in which he has declined to take up the arbitration proceedings. In the arbitration clause there is a provision for appointment of the sole arbitrator.

3. On consideration of the totality of the facts and circumstances of the case, I deem it proper to appoint Mr. Justice R.J. Kochar, retired Judge of this Court to accept this arbitration. I order accordingly. He would be at liberty to fix his own fees. This application is accordingly disposed of.

CHIEF JUSTICE